

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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COLBY GOROG, JOSHUA FLINT, LOUIS	:	
ROBINSON, and MICHAEL LERRO, individually	:	<u>ORDER DENYING MOTIONS</u>
and on behalf of all others similarly situated,	:	<u>FOR DISQUALIFICATION</u>
	:	<u>AND SANCTIONS</u>
Plaintiffs,	:	
	:	22 Civ. 5037 (AKH)
-against-	:	
	:	
ELON MUSK and TESLA, INC.,	:	
	:	
Defendants.	:	
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ALVIN K. HELLERSTEIN, U.S.D.J.:

Both sides in this case have moved to sanction or disqualify the other's counsel: Plaintiffs seek to disqualify defense counsel because of the concurrent representation of co-defendants Tesla, Inc. and its officer, Elon Musk. Plaintiffs also seek sanctions against defense counsel because of a June 15, 2023 New York Post article discussing an undisclosed private letter sent from defense counsel to plaintiffs' counsel. Defendants seek sanctions under Fed. R. Civ. P. 11(b) against Plaintiffs' counsel for continuing to prosecute this case. For the below reasons, both motions are denied.

Plaintiffs' disqualification motion is denied. These are sophisticated defendants, and there is no reason to disturb their choice of common counsel without a specific showing supporting disqualification. *See* N.Y. Rules of Prof. Conduct 1.13(d). Written and docketed consent is not required. *See* N.Y. Rules of Prof. Conduct 1.7.

Plaintiffs' motion for sanctions pursuant to 28 U.S.C. § 1927 is denied. Absent a showing of bad faith or specific evidence of defense counsel's involvement, Court will not

impose sanctions because a news outlet reported about a letter privately sent to opposing counsel. If Plaintiffs' counsel did not want that information in the public domain for clients and potential jurors to see, he should not have publicly docketed the full letter. My ruling in this instance does not prevent either side from seeking sanctions if there are further public disclosures of private correspondence.


Defendants' motion for Rule 11 sanctions is denied. Plaintiffs have presented non-frivolous and good-faith issues to litigate, which are appropriate for dispositive motions and at trial.

CONCLUSION

For the above reasons, both motions are denied. The Clerk is instructed to terminate the open motions at ECF Nos. 82 and 86.

SO ORDERED.

Dated: December 11, 2023
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge